UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,238	08/27/2003	Wolfram Schulte	3382-65592	6392

26119   7590   01/30/2008
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EXAMINER
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ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
01/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	10/650,238	SCHULTE ET AL.
	Examiner	Art Unit
	Tuan A. Vu	2193

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>12 January 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☒ The period for reply expires <u>3 </u>months from the mailing date of the final rejection.

    b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on ____ . A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☒ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☒ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): ____ .

6. ☐ Newly proposed or amended claim(s) ____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: ____ .

    Claim(s) objected to: ____ .

    Claim(s) rejected: *1-33*.

    Claim(s) withdrawn from consideration: ____ .

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.
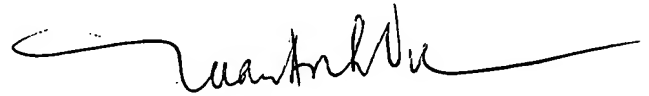
<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
____

12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). <u>8/21/07</u>

13. ☐ Other: ____ .

Continuation of 3. NOTE: The proposed changes to the claims require further consideration, and/or more analysis with respect to the original Application in terms of compliancy to USC 112 statute. In light of the Final Office Action, the changes cannot be entered in order to not complicate the effect of a potential Appeal, the Final rejection remaining outstanding. Further, Examiner would like to make some remarks about the Applicant's arguments, for the sake of providing hints that would help Applicant in terms of how to go about in the next submission, as following. First, 'reflection' of a compiled program entails analysis over a program that has been converted into some intermediate form (not source code), and when 'metadata' as proffered relates to static knowledge such as object membersor class constructor, it is hard to see how compiled intermediate form and static knowledge can be equated into a domain of meta-information. Second, domain data as input (i.e. the claim exhibits a typo in "within the data domain is input") has been interpreted as a range of values for testing a code, and this range values (being derived from compiled code structure) cannot be analogous to static non-runtime related type of meta-information. Third, as a whole and in the hypothetical case where the proposed changes would be entered, the claim amounts to receiving metainformation and configuration information, to produce a set of ranges (based on compiled form of program such as a CFG) of values serving as input to verify if the program when simulated with such set or values, would not yield errors. In that light, the claimed invention is not distinguishing from code verification such as the tree-based code testing/debugging by Davidson, among others. As it stands, the claims as proposed will not be entered because they are not identified as having allowable, non-obvious subject matter.

Form 1449 (with Examiner's initials) for IDS 8/21/07 is herein attached

01/28/08